

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

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4 TALMER BANK AND TRUST,

5 Plaintiff,

6 v.

7 VALLEY BANK OF NEVADA,

8 Defendant.
9

Case No. 2:16-cv-01290-APG-CWH

ORDER FOR SUPPLEMENT

10 Plaintiff Talmer Bank and Trust filed this lawsuit alleging that defendant Valley Bank of
11 Nevada breached a participation agreement between the banks by extending the loan's maturity
12 date without Talmer's consent. Talmer moved for summary judgment, arguing it was entitled to
13 \$414,447.72 in damages. That amount was justified by a conclusory affidavit by Talmer's Vice
14 President, Brian Kubala, of the amount owed, without any explanation of what amounts were
15 included in that sum. ECF No. 17-1 at 6.


16 As the briefing on summary judgment concluded, the borrower sold the property and
17 Talmer received a loan payoff in the amount of \$380,225.19. ECF No. 32 at 1. Valley Bank thus
18 suggests this case is moot because Talmer has received the loan payoff. ECF No. 32 at 2.
19 According to Valley Bank, the discrepancy in the amount paid versus what Talmer requests in its
20 summary judgment motion is explained by Talmer's request for attorney's fees. ECF No. 32 at
21 14-19. But Valley Bank asserts Talmer has no legal or contractual basis to request those fees.

22 Talmer has not responded to these developments. Nor has Talmer identified any basis for
23 an attorney's fee award. I therefore direct Talmer to file a supplemental brief addressing Valley
24 Bank's contention that this case is moot given the payoff of Talmer's participation in the loan. In
25 the alternative, the parties can stipulate to dismiss the case if all issues are now resolved.

26 IT IS THEREFORE ORDERED that on or before December 15, 2017, plaintiff Talmer
27 Bank and Trust shall file a supplemental brief addressing whether this case is moot.
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1 IT IS FURTHER ORDERED that defendant Valley Bank of Nevada may file a response
2 within ten days of receiving Talmer's supplemental brief.

3 DATED this 22nd day of November, 2017.

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6 ANDREW P. GORDON
7 UNITED STATES DISTRICT JUDGE
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